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10/788,684

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Richard J. Scherer

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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* RICHARD J. SCHERER, KEVIN R. MEREDITH,  
JOHANNES P.M. KUSTERS, and JEROME P. DATTILO

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Appeal 2008-2837  
Application 10/788,684  
Technology Center 2800

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Decided: September 19, 2008

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Before BRADLEY R. GARRIS, PETER F. KRATZ, and  
JEFFREY T. SMITH, *Administrative Patent Judges*.

KRATZ, *Administrative Patent Judge*.

ORDER REMANDING TO THE EXAMINER

This is an appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-16. We have jurisdiction pursuant to 35 U.S.C. § 6.

The claimed invention is directed to an electrical header connector including a header body and shield blades.

We remand this Application to the Examiner for clarification and further consideration of a rejection pursuant to 37 C.F.R. § 41.50(a)(1) for the following reasons:

1. The Examiner lists Ramey et al. (U.S. Patent No. 6,371,813) as evidence being relied upon in this appeal; however, the appealed claims are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ramey et al. (U.S. Patent No. 6,146,202). Compare item Nos. 8 and 9 of the Answer. Thus, clarification by the Examiner is required to correct this inconsistency.
2. A principal issue raised in this appeal with respect to the Examiner's obviousness rejection rests on the interpretation of a claim limitation with respect to first ends of claimed shield blades being configured such that these first ends would be substantially coplanar with an internal surface of a header body upon insertion in second openings included in the header body (claim 1; App. Br. 5-6; Reply Br. 3-4). In this regard and in applying the prior art to the claims, the Examiner seemingly takes a position that "substantially coplanar" allows for shield blade first ends that could be configured relative to a header body such that, upon insertion in openings therein, the first ends would lie significantly outside the plane of a header inner surface (Ans. 3, 4, and 6).

However, the Examiner makes this assertion without particularly quantifying what the Examiner has determined to be the degree of deviance from a coplanar arrangement that the qualifying term "substantially" permits in terms of the scope of the claims before us. In this regard, the Examiner refers to a portion of page 5 of Appellants' Specification wherein positioning

of a shield blade first end slightly above or below a header body inner surface is described without further elucidating how this disclosure relates to and defines particular limits for the “substantially coplanar” claim limitation (Ans. 6).

In addition, and assuming that Ramey (U.S. Patent No. 6,146,202) is the evidence being relied upon by the Examiner in this Appeal, the Examiner should further explain how the Examiner is interpreting right angle shielding portions 428 of the shield blades of Ramey (U.S. Patent No. 6,146,202) as being located at the first ends of the shield blades. Appealed claim 1 requires the shield blade shielding portion to be located at the first ends of the claimed shield blades. While the Examiner refers to drawing Figure 15 of Ramey (U.S. Patent No. 6,146,202), that drawing figure seemingly shows the referenced right angle shield blade portions 428 as being located a significant distance from ends 462 and ends 464 of the shielding blades depicted.

Thus, further explanation from the Examiner as to the Examiner’s interpretation of the scope of the rejected claims and how the prior art, that is being applied, teaches or suggests the properly interpreted claimed connector, including the above-mentioned limitations, together with Appellant’s additional briefing thereon are necessary for a reasoned decision on this appeal.

Accordingly, we remand the application to the Examiner, via the Office of the Director of the Technology Center, to consider the foregoing issues and to take action not inconsistent with the views expressed herein.

This remand to the Examiner pursuant to 37 C.F.R. § 41.50(a)(1) is made for further consideration of a rejection. Accordingly, 37 C.F.R. §

Appeal 2008-2837  
Application 10/788,684

41.50(a)(2) applies if a Supplemental Examiner's Answer is written in response to this remand by the Board.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

REMANDED

tf/lb

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